

Appendix C

Background information to proposed contract of transfer

Some background information to the proposed contract of transfer

Although never formally introduced, we knew Paul & Janice Lenehan from the school gate and also from purchasing furniture from their business Sienna Home Furnishings in Waterford City. This was around 2011. When they applied to build near us we invited them in for coffee during their occasional site visits. It was more “neighbourly” than a close friendship.

In the initial planning submission (14600157), Waterford City and County Council stipulated planning conditions based on farming need and agricultural use. The planning application was granted but was withdrawn due to the restrictive conditions. Paul & Janice then reapplied for planning 16/21 and permission was granted with revised conditions. We note that Janice Lenehan and her nine cousins do not take part in any kind of farming activity, and that all of the farm is rented out to a neighbouring farmer.

Sometime around January 2017, Paul informed us that a small unplanned hitch had arisen with Planning App 16/21, and asked would we be prepared to sign over our 50% “Right of Way” to the lane outside, to them. This would allow them to build their new house. It was agreed that they would draw up the necessary papers (see Appendix B), and send them to our solicitor, where we could sign them. This document was ready around April 2017 and we went to sign it. By this time we had known Paul and Janice at least 6 years. In all that time it had never been mentioned about the joint ownership, with the 9 cousins, of the lands. We thought we were dealing with Paul & Janice only. It was obvious from the document that all the cousins would benefit from the Right of Way also. We felt we had been misled and did not sign the document because we were worried that it would lead to many more houses on the site.

When we refused to sign the document, we genuinely thought the location of the house would be moved or failing that, that a new access road emerging at a different point on the public road would be considered. However, the entire focus remained on the laneway and building in the same location. Despite all our protests and reservations, Waterford City and County Council appeared to us to be facilitating this access road and entrance at every turn.

On the morning the JCB's and diggers arrived outside our house we felt an enormous sense of panic and tension. The land outside our gate rises upwards, and the digger driver was about to break through the land bank immediately outside our front gate. Our first thoughts were that our house would be flooded from the run-off during the first bad rains. We said this to the crew chief who agreed and ordered the driver to break the bank further up the lane. All this work was very amateur and disorganised with no engineer present and we looked on in disbelief. We felt very strongly that Waterford City and County Council should have at least, out of courtesy and manners, written to us regarding the this so-called ‘Immaterial Deviation’ and allowed us a right of reply. Unfortunately, we feel that all our concerns and protests have been totally ignored, if not treated with contempt.

When the new lane was being constructed/made we tried to challenge the development on the following grounds:

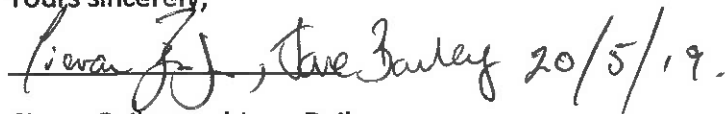
1. Sightlines, road safety on our laneway.
2. Drainage and possible water well pollution, on our land.
3. Exposed drains/damage during construction.
4. Disruption to Watercourse

We feel that every issue we raised was trivialised, despite assurances that everything was above board. We were informed by Waterford City and County Council in the course of a telephone conversation that an engineer had visited the site and had no issue with any of our concerns. However, when we visited Waterford County Council Planning offices to look at the files, we were alarmed to find that no engineers report existed and also that some of our submissions had not reached the file.

We have had to live with all this planning uncertainty for the last number of years, and we have drawn our own conclusions. We did not object to the house 16/21 by virtue of having known the owners. However we are now seriously concerned that it may be used to establish a precedent for further development of these lands. The group of cousins have already failed in an attempt to develop the farmlands in Ballymacaw, ABP Ref 071278 7/8/2007, which was part of the bequeathed landholding. This may give rise to surreptitious, creeping development over the next 10 years, in what is an extremely sensitive coastal area. For us personally, any further development will create an increasingly dangerous situation at the junction where the newly built access road and entrance merges onto our lane. Our aim is that this new lane and entrance (or so-called 'Immaterial Deviation') be removed and that the lands and hedges restored to their original green field status. To facilitate this, we are willing to sign over a "Right of Way" to Paul & Janice Lenehan (but not for any further sites on these lands), in order that they may use the original laneway for access to their new home.

We remain seriously concerned at many aspects surrounding the transparency of the planning process in this particular case. We trust that An Bord Pleanála will take our views on bord.

Yours sincerely,

 20/5/19.

Ciaran Bailey and Jane Bailey